

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA1  
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9 ROBERT LAMAR BALL,

No. C 13-01483 SBA (PR)

10 Plaintiff,

**ORDER OF DISMISSAL**

11 v.

12 M. E. SPEARMAN, et al.,

13 Defendants.

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15 On February 3, 2014, the Court issued an Order Dismissing Amended Complaint with  
16 Leave to Amend. Specifically, the Court granted Plaintiff twenty-eight days from the date of  
17 the Order to file a second amended complaint to allege facts sufficient to state a cognizable  
18 constitutional claim. Plaintiff was warned that the failure to timely file a second amended  
19 complaint would result in the dismissal of this action under Federal Rule of Civil Procedure  
20 41(b).21 The deadline for Plaintiff to file his second amended complaint has passed, and, to  
22 date, Plaintiff has not filed an amended pleading. Taking into account the salient factors set  
23 forth in *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260 (9th Cir. 1992), the Court finds that  
24 dismissal is warranted under Rule 41(b).<sup>1</sup> See *Yourish v. Cal. Amplifier*, 191 F.3d 983, 989,25  
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<sup>1</sup>If and when Plaintiff is prepared to pursue his claims, he may file a new civil rights  
27 action. The limitations period to file a § 1983 action in California is two years, but it is tolled  
28 for up to two years during a continuous period of incarceration. See *Silva v. Crain*, 169 F.3d  
608, 610 (9th Cir. 1999) (holding, pursuant to Cal. Civ. Proc. Code § 340(3), that the limitations  
period for filing a § 1983 action in California is one year); S.B. 688 (amending Cal. Civ. Proc.  
Code § 340(3) and adding § 335.1 to establish two-year residual limitations period for personal

1 992 (9th Cir. 1999) (affirming dismissal of action following plaintiff's failure to amend  
2 complaint after receiving leave to do so, where the interests of expeditious resolution of  
3 litigation, the court's management of its docket, and avoiding prejudice to defendants  
4 favored dismissal). Accordingly,

5 IT IS HEREBY ORDERED that the amended complaint in the above-captioned action  
6 is DISMISSED. The Clerk of the Court shall enter judgment, terminate all pending motions  
7 and close the file.

8 IT IS SO ORDERED.

9 DATED: April 18, 2014

  
10 SAUNDRA BROWN ARMSTRONG  
11 UNITED STATES DISTRICT JUDGE